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**Humanitarian Intervention:  
Lessons from the  
Nigerian Civil War.**

by

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HUMANITARIAN INTERVENTION :  
LESSONS FROM THE NIGERIAN CIVIL WAR \*

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*Introduction.*

This paper will address the problem of the priorities and processes of the normative regulation of international violence from the perspective of a case study : humanitarian intervention in the Nigerian Civil War. Though the conflict in question was a civil or internal war, foreign intervention in that arena clearly places the Nigerian Civil War in the category of conflict that we call « international civil war. » Ten or fifteen years ago, it may have been necessary to justify the treatment of a civil conflict in the context of a panel on international violence. Today we recognize the extent to which the boundary between the civil and the international realms has blurred, and the inherent dangers of « boil-over » from the first into the second. Furthermore, since a major focus of this study is the problem of safe-guarding human rights, there is a primary linkage between the civil and the international systems through the perceived connection between the safeguarding of fundamental human rights and the attainment of a peaceful and secure international order. Whether the former (human rights) or the latter (peace and security) is the independent variable is one of the questions which will be explored below.

The Nigerian Civil War was a conflict that generated extreme passion and partisanship outside the conflict area. In fact, during the last year and a half of the thirty month war, from May 1968 until January 1970, the war can be said to have produced an « huma-

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nitarian crisis » in North America and Western Europe. The main focal point of that « humanitarian crisis » was the fact of starvation, in epidemic proportions, in the blockaded secessionist area of the country. There were, however, two complicating dimensions to the crisis : the argument that Biafra's right to national self-determination was an humanitarian question ; and Biafran allegations that the Federal Military Government (FMG) was perpetrating genocide on the Biafran people through three instrumentalities — through massacring of civilians by federal ground troops ; through indiscriminate bombing of civilian targets ; and through the blockade and the consequent starvation in the East. Though the prime focus of this paper is on the relief operations and, consequently, on the starvation dimension, the other interrelated aspects of the problem will be given some attention ; for it is only by setting the relief operations within the charged atmosphere generated by the other issues that a proper perspective can be brought to bear on them.

One final comment must be made by way of introduction. Three and a half years have now elapsed since the end of the Nigerian Civil War. Now that passions have cooled somewhat, it should be possible to examine the « humanitarian crisis » from a somewhat more objective standpoint than that attained when there were vested stakes in the outcome. This is not to say that this paper will attempt to present a valuefree approach, for there is a normative perspective implicit in the problem posed : to wit, what lessons can be learned from the Nigerian Civil War so that civilian sufferings and death can be minimized in future similar conflagrations ? Hopefully, however, we can avoid partisan identification with either the Nigerian or the Biafran point of view — a partisanship so openly manifested in the war's polemics.

### *Background to the Conflict.*

The Federal Republic of Nigeria gained its independence from Britain in October 1960 and, after enjoying several years of reknown as Britain's showcase of democracy in West Africa, the fissures in the fabric of Nigeria's political life became manifest. At the risk of gross oversimplification, it can be argued that the dominant theme of the post-independence period was a struggle for power between Nigeria's three main Regions, each dominated by a major ethnic group. The North, in which the Moslem Hausa-Fulani predominated over the tribal minorities of the « Middle Belt », was the largest, the most populous, the most conservative, and the most under-developed area of the country ; and, because Britain's legacy to the Northern Emirs had been a federal Constitution in which population determin-

ed representation at the center, the federal government was controlled by the Northern Peoples Congress (NPC). The East, where the Igbo predominated over a melange of minority tribes (the Ibibio, the Efik, the Ijaw, etc.), was a densely populated Region. As a consequence of this high population density, many Easterners migrated to the North and to the West in search of employment. The Igbo, who had absorbed both Christian mission religion and education, were reputedly aggressive in the intense economic competition for a severely limited national pie. During the first years of independence, the Eastern-based political party (the NCNC) was a junior partner in a federal coalition government with the NPC.

The West, where the Yoruba dominated, was the « out » Region of the post-independence period. The Yoruba Action Group party formed the « loyal opposition » in a system in which being in opposition meant losing out on jobs, scholarships, and the distribution of other political favours. The tensions that this generated led to bitter conflict in the Region, exasperated when North backed one faction in a bid to gain a foothold in the West, largely through foul play. The Yoruba had been the first of Nigeria's ethnic communities to be exposed to Christian proselytization (though Islamic influence also penetrated from the North and the dual interplay produced a population divided about evenly as between the two faiths) ; they were, therefore, the main competitors of the Igbos in the modernized sectors of the government and the economy. This, more than anything else, explains the inability of the two advanced Southern Regions (East and West) to combine to break the power of the North. Nonetheless, the Northerners always feared the emergence of a such a front and this fear accentuated the inherent North/South cleavage. (The fourth Region, the Mid-West, was carved out of the West after independence, when the Yoruba, weakened by inter-Regional conflict, were unable to resist the demands of their Edo minority for their own state. However, with a large Igbo population and the NCNC in power, the Mid-West was, in many respects, a protégé of the East.)

Under the intense strain of this three way struggle, and riddled through and through with corruption, the Nigerian « democratic » political machine broke down. A coup d'état in january 1966 overthrew the civilian Northern regime of the NPC and installed an Easterner, Major General Aguiyi-Ironsi, as head of a military government. Though the impetus for the coup had come from « puritanical » young majors, tired of the excesses and opulence of their civilian rulers — that is to say, though the coup was not « tribally » motivated — Ironsi's poor judgment, both in his choice of advisors and in his policies, resulted in a situation in which Northerners came to

interpret the coup as an Igbo plot to gain control of the federal government. As a consequence, a second coup was executed six months later which was clearly a Northern attempt to regain control. Ironsi was murdered and a Northerner (though a Christian from the Middle Belt, not a Moslem from the « true North ») was the compromise choice of the Northern elements (many Middle Belters among them) in the army. Thus, Lt.Col. Yakubu Gowon became Head of State.

Gowon's authority was not, however, acknowledged throughout the country. Most particularly, it was rejected by the Eastern Region, under the governorship of Lt.Col. Odumegwu Ojukwu. The factors behind this rejection are too complex to delve into here, but two points may be made to elucidate the issues which were catalytic to the secession. First, while the January coup had been relatively bloodless (only key political figures were assassinated), the July coup was accompanied and followed by communal violence. In effect, the violence amounted to pogroms. Carried out largely by Northerners directing their rage against the Igbos and other Easterners residing in the North and in the West, these massacres resulted in a death toll of over 10,000 ; in thousands more mutilated ; and in an exodus of between a million and a half and two million Easterners, back to their Region of origin. It also resulted in the expulsion of all non-Easterners from the East. Furthermore, since the last of these pogroms (in which soldiers played a part) occurred in October 1966, at a time when Gowon was already in power, Ojukwu became convinced that Gowon was either unable or unwilling to safeguard Eastern life and property throughout the federation. The Nigerian political system, thereby, polarized (though with the West remaining somewhat ambivalent). Power became dichotomous with Ojukwu controlling the East and Gowon controlling the center.

The second and related factor that was catalytic to the secession concerned a clash of perspectives on the principles of the Nigerian Constitution. Ojukwu argued that the Nigerian Federation could only be saved if each of the four Regions was given greater autonomy with respect, specifically, to the maintenance of security and to the control of the Region's resources. (The latter provision gave rise to the charge that oil — Nigeria's oil resources were concentrated in the East — was a major factor in Ojukwu's calculations. It was certainly not unimportant though how primary it was is a matter of contention.) For his part, Gowon argued for a federation of weaker states and a stronger center : one which could overcome the tripartite struggle centered in the Regions. However, his twelve-state conception of Nigeria (wherein the old North was divided into six units, the West into two, the East into three, with the Mid-West remaining as the twelfth state) was proclaimed in an atmosphere of



such intense hostility that it could not be objectively appraised by the East. Rather, the Igbo elite viewed the twelve-state structure as a ploy to undermine the power of the Igbo and the unity of the Eastern Region. [In splitting the East in three and, thus, realizing the ambitions of the minorities, not only was political power weighted in favour of the latter — the minorities had two states as against the one Igbo state — but so too were the economic spoils. The East Central State (Igboland) got none of the oil-rich areas ; it was cut off from access to the sea ; and both the Igbo town of Port Harcourt (with Nigeria's main oil refinery) and the oil terminal at Bonny, went to Rivers state.] Three days later, Ojukwu proclaimed the Republic of Biafra and took the Eastern Region out of the Nigerian Federation.

### *The War and the International Line-up.*

There was a month of deceptive calm before the shooting began, in July of 1967. Though the first federal advances were countered by a spectacular Biafran penetration into the Mid-West, by October 1967, the Biafrans were driven back across the Niger and onto the defensive. This marked the beginning of the shrinkage of Biafra, with federal troops wresting away more and more territory. By May 1968, with the fall of Port Harcourt, Biafra was completely landlocked and its last international airport had fallen. [In anticipation of this loss, the Biafrans converted a strip of road near Uli-Ihiala into a make-shift airfield. Code-named « Annabelle » and the best protected of Biafra's airstrips (there were three other improvised strips in use at various points in the war), Uli was to gain fame (or notoriety) as the terminal point of the relief flights into the enclave. Since Uli also served to receive Biafran arms planes, Annabelle was to be at the center of the intense political controversy over the modalities of the relief operations.] After a year and a half of war, Biafran territory had shrunk to about a tenth its original land-masse : by then, it largely comprised the Igbo heartland.

The Nigerian Civil War, eclipsed by the 1967 Suez crisis, the Vietman War, the Pueblo incident, and other « big stories », was largely a « forgotten » or, more accurately, an unperceived war during the first ten months of battle. This notwithstanding, foreign interests aligned themselves with the belligerents according to their calculations of political and economic advantage. In the words of Stanley Meisler (correspondent for the *Los Angeles Times*) the international alignments produced « odd bedfellows. » Both the British and the Soviets came out in strong support of the goal of Nigerian unity and supplied the FMG with its weapons requirements. (The

British provided much of the light arms ; the Soviets provided the heavy arms including MIGs and Ilyushin bombers, the planes piloted by and large by Egyptian « mercenaries ».) The United States, ostensibly neutral and refusing to sell arms to either belligerent, nonetheless considered the conflict a British responsibility and was in favour of a united Nigeria. Most African states, expressing themselves through the Organization of African Unity (OAU), also came out in support of the federal position. They were concerned lest a positive sanctioning of an instance of secession would set off a balkanization process in their own weakly integrated states, which could only redound to the benefit of « neo-colonialists » and the great powers. Furthermore, with the 1960 Congo crisis as their point of reference, African statesmen resisted all attempts to take the crisis to the United Nations forum. To « internationalize » the crisis beyond the African Continent and the OAU was, in their view, to risk the intrusion of cold war issues.

The other side of the line-up consisted of an even more motley crew. For more than one full year, the Biafrans had been forced to buy all their arms illicitly, on the black market, for not a single state would openly trade with the secessionists. Then the French, somewhat belatedly and somewhat clandestinely, began shipping arms to the Biafrans through Gabon and the Ivory Coast. De Gaulle proclaimed himself in favour of Biafra's right to national self-determination and came very close to recognizing the secession. The Portuguese, because they saw a chance to detract attention from their brutal colonialism, and a chance to turn a quick profit, permitted the Biafrans to buy arms and recruit mercenaries in Lisbon. They also gave the secessionists free access to Sao Tomé (where arms planes could refuel on route to the enclave), and they helped establish a communications link between the enclave and Lisbon. Four African states of different ideological bents — Tanzania and Zambia (from the « radical » camp) and the Ivory Coast and Gabon (from the « conservative » camp) went so far as to grant *de facto* recognition to the Republic of Biafra — a position strongly at odds with the OAU stance. The arguments they forwarded were based largely on humanitarian grounds : recalling the massacres and focusing on the death and destruction being wrought by the war, they argued that unity could not be bought at so high a price in bloodshed. Biafra's right to national self-determination had, therefore, to be recognized. Analysts generally concede that the timing of these recognitions (in April/May 1968) was such as to apply pressure on Gowon to bring him to the negotiating table. Indeed, the Biafrans and the Nigerians were persuaded to begin talks at this time : first under the auspices of the Commonwealth and then under the auspices of the



OAU. Unfortunately, these and other attempts to negotiate an end to the war proved futile.

### *The « Humanitarian Crisis »*

Though the Nigerians kept insisting that the war was their own internal affair, and though the OAU kept insisting that it was, at most, an African responsibility, international involvement in the war (most particularly, the supplying of arms) had the effect of universalizing concern. Furthermore, as Biafrans and Nigerians campaigned for support abroad, the international community was forced to confront certain normative issues pertaining to the conduct and the course of the war. Foremost amongst these was the Biafran charge of genocide. In Biafra's initial bill of particulars, the case was made in terms of massacres and indiscriminate bombing. Then, in May/June of 1968, genocide through starvation was added as the most compelling of Biafra's arguments. To understand what was at issue, it is necessary to say a word or two about the emergence of the famine in the East.

Though it was the fall of Port Harcourt, in May 1968, that was to mark the beginning of the epidemic famine, the incubation signs had been in evidence as early as January of that year. Several factors accounted for the epidemic. In the first place, as the Region (heavily rain forested) was so densely populated to begin with, the return of the two million refugees, before the outbreak of the war, put considerable strain on the economy ; and, although these refugees were absorbed with remarkable effectiveness by the extended family network, the East's land base now had an extra burden put on it. Second and most important was the blockade of the Eastern Region, a blockade effected even before the war erupted. While the Region produced most of its own fat and starch requirements, 80 % of its protein had been imported, either from other Regions or from abroad ; the blockade (which tightened considerably when Biafra became land-locked) cut Easterners off from their traditional sources of protein. It is, therefore, not surprising that the first stage of the famine became manifest as a « protein crisis » with the concomitant kwashiorkor syndrome. Finally, Easterners (recalling the massacres and exposed to the propaganda of the Ojukwu government) were convinced that the federal troops were bent on genocide and, therefore, they fled in the face of federal advances instead of staying in their villages and letting the war « roll over » then. The result was that an ever shrinking land base was forced to support an ever increasing population. The disruption of

agricultural patterns that the fighting produced exasperated all the difficulties.

Though starvation in Biafra only became a « big story » in May/June 1968, there were a number of Westerners who had been sensitive to the emergence of the situation for many months. The International Committee of the Red Cross (ICRC), which had first been concerned with providing adequate medical supplies to the secessionists, had been able to arrange one relief flight to the enclave in November 1967. Subsequent to this, the ICRC made numerous efforts to get federal approval for additional relief flights, but it was unsuccessful in this attempt. Federal objections to relief flights, even at this early date, centered on an issue which was to remain the major point of contention throughout the war : namely, the modalities for delivering relief. Though the FMG did not challenge Biafra's right to receive medical supplies and foodstuffs for civilians, as per Article 23 of the Fourth Geneva Convention, it insisted on the right to inspect all supplies in Lagos, before they were delivered into the enclave, to ensure that no contraband was in the cargo. The Biafrans, however, refused to accept any supplies inspected on federal territory. As we shall see, their argument — that the FMG would poison the food and medicine — was merely a blind to cover a far more fundamental issue : their sovereignty and independence. Through a similar process of reasoning, Nigeria's insistence on the rights of inspection comprised a denial of the legitimacy and independence of the Biafran regime.

Though the ICRC's early efforts at effecting a relief agreement proved futile (in March 1968, it did deliver one planeload of medicine to the Biafrans but, without federal agreement ; it turned the supplies over to the Biafrans in Lisbon, whereupon they transhipped it themselves), in April of 1968, the Nigerians were forced to turn to the International Red Cross for aid. Because the Nigerian Red Cross was a young and inexperienced organization, and because it lacked the human and material resources to meet the increasingly heavy demands being placed on it by the exigencies of the war (battle casualties as well as refugees), the ICRC was called in to coordinate the relief programme and to make international appeals for assistance. Aware of the deteriorating situation in the enclave, as well as on the federal side of the lines, the ICRC accepted the coordinating task with a condition : that it be permitted to minister to the needs on both sides of the front — in Biafra as well as in Nigeria.

Those Westerners who were most sensitive to the emergent famine conditions were the missionaries who had decided to stay on, despite the war, to minister to the needs of their congregations. The largest element of this group comprised Catholic missionaries (large-

ly, Irish Holy Ghost Fathers), but there were also a number of Protestant missionaries associated with churches in Great Britain and the European continent. Their reports, and their appeals for assistance, reinforced the picture being presented by respected Biafran churchmen (Dr. Francis Ibiam was one of the Vice-Presidents of the World Council of Churches and Sir Louis Mbanefo was highly respected abroad). The anxieties thus evoked were expressed in a variety of ways. In January 1968, Rev. E.H. Johnson (travelling in a personal capacity but considered to be a representative of the World Council of Churches), visited Biafra and then went on to Lagos ; his hope was that Christian churches could open up a line of communication between the belligerents and, so, lead them to negotiations. Shortly afterwards, a Vatican delegation defied the Nigerian blockade. The delegation had visited Lagos in December and, although they were unable to get federal permission to permit them to fly into the East, they persisted. Resorting to the same instrumentality that Johnson had used — Frank Wharton, the gun-runner — the Vatican mission flew into Uli, bringing a planeload of relief supplies with them. In the following months, Catholic and Protestant churchmen issued numerous statements of concern about the course and consequences of the war. Since many were persuaded of the validity of Biafra's genocide charge, Lagos was enflamed by what appeared to be partisanship on the part of Christian churches.

To round off the picture, one might note that a number of established relief agencies — organizations like Oxfam and Save the Childrens Fund in Britain, like Catholic Relief Services, Church World Service or CARE in the United States, and like UNICEF — were aware of the growing dimensions of the problem, in some cases because they had projects in Nigeria before the war broke out. Many stood prepared to help if a way could be found to effect a relief agreement.

### *The Illicit Airlifts.*

From April 1968 onwards, serious attempts began to be made in an effort to get relief into the enclave. The Vatican, through its relief arm — Caritas Internationalis — was the most intrepid in these early endeavors and the first to buy space on arms flights, or to charter planes from the gun-runners. With no other available alternative, the ICRC and the World Council of Churches soon followed suit. These sporadic flights continued until July, when a new phase of Biafran relief began.

It is important to remember that, by the summer of 1968, the

starvation death toll in Biafra was, reportedly\*, increasing from 5,000 to 8,000 to a high of 10,000 per day (in August/september) ; and that, with photographs of kwashiorkor children on the front pages of European and North American newspapers, and flashing across television screens, emotion was reaching a fever pitch abroad. In many countries, large scale fund-raising began for « Biafran relief », grass-roots organizations sprang up to support relief work, and publics began pressuring their governments to take some action. Among the most frequently voiced demands were the following : that an arms embargo be instituted ; that the crisis be taken to the United Nations General Assembly ; that the United Nations Commission on Human Rights consider the Biafran charge of genocide ; that a peacekeeping force be sent to the area ; and that governments provide the financial and material backing for a massive airlifting of supplies to the enclave, if the Nigerians persisted in their refusal to lift the blockade. It was not, however, governmental initiative that emerged from all this fervour. Rather, it was a large number of non-governmental actors (relief agencies and churches being the most prominent) — those who had been sensitized to the problem early — that continued to spearhead relief efforts. As a result of their initiative, four airlifts (two major ones and two minor ones) were organized. These formed an airbridge between the blockaded secessionists and the outside world.

The first, and the most important of these airlifts, came to be known as the Joint Church Aid (JCA) Uli-Sao Tomé operation, affectionately termed Jesus Christ's Airline. It evolved from the regularization of the early church flights, a process which began in July, when Protestant and Catholic German church organizations (Das Diakonische Werke and Caritas Verband Deutschland), supported by Caritas Internationalis, purchased their own planes. A few weeks later, the Nordic churches (who joined together in an organization called NORDCHURCHAID) added other planes to the fleet. At the end of August, these agencies were able to affect a complete break with the gun-runners (until then, they had had to rely on Wharton's pilots) and to become an autonomous relief operation. JCA — a loosely organized consortium — eventually came to comprise some 32 participating organizations from 28 countries. In addition to the German churches, NORDCHURCHAID, and Caritas Inter-

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\* Considerable controversy surrounds the starvation death statistics. The Nigerians claimed that the Biafrans and the relief agencies exaggerated the statistics to gain sympathy and support for the relief. Elsewhere, I have dealt at length with this problem (U.C.L.A. dissertation, 1973, *The International Politics of Relief*) and time does not permit detailed treatment here.

nationalis (who were all involved in purchasing or chartering aircraft), two other organizations became « operational » members in the Sao Tomé setup : JCA-USA (consisting of Catholic Relief Services, Church World Service and the American Jewish Committee) which acquired planes in December 1968, and Canairelief (which joined the airlift shortly thereafter).

The second of the major airlifts — Operation INALWA (International Airlift West Africa) — was established by the ICRC which also began acquiring planes in July 1968. It, however, operated out of Fernando Po which (until October 1968, when it became part of the independent country of Equatorial Guinea) was a Spanish territory. Early in 1969, the ICRC was denied permission to use Santa Isabel (Fernando Po's airfield) and it subsequently got permission to operate out of Cotonou, in Dahomey. Operation INALWA ceased in early June 1969 when, after a Red Cross plane was shot down by a Nigerian MiG, and after Auguste Lindt (the ICRC's relief co-ordinator) was declared *persona non grata* and expelled from Nigeria, the organization determined to stop the night flights and put all its efforts into an attempt to affect a daytime agreement. A major factor in this decision was the ICRC's fear that, because its « neutrality » and political independence was being called into question, its legitimacy was being undermined ; from the perspective of organizational survival, it appeared strategic to withdraw from Nigerian relief — its co-ordinating mandate was, in fact, revoked by the Nigerians at this time — so as to protect its legitimacy to act in future situations.

In addition to these major airlifts, there were also two minor airlifts to Biafra, both organized from Libreville, Gabon. The first, which began in the summer of 1968, was organized under the aegis of the French Red Cross. The second began in February of 1969 when Africa Concern, an Irish organization that developed in response to the crisis, began chartering planes to fly relief into the enclave. Until that time, Africa Concern had operated through the JCA consortium.

These four airlifts had substantially different support bases and substantially different operating principles. The ICRC airlift was the one that was accorded the greatest legitimacy and which operated with the greatest of caution. Drawing authority for its operations from its traditional role as a « neutral » and « humanitarian » actor, from the Geneva Conventions of 1949, and from the fact it had been appointed relief co-ordinator by the FMG, the ICRC appealed to governments and to international organizations for support. It provided assurances that Red Cross planes carried nothing but legitimate



relief cargo and it permitted Nigerian officials on Fernando Po to inspect the shipments. It did carry fuel for its relief vehicles, so as to be able to effect the distribution of relief supplies in Biafra, and this was a major factor in its expulsion from Santa Isabel. However, it refused to carry material for the repair and maintenance of the Uli airstrip ; nor would it carry Biafran mail ; and it had very strict regulations about transporting journalists and other non-relief personnel on its planes. Though the Nigerians were always ambivalent about the ICRC airlift — at times, they seemed to give it tacit approval and, at other times, they claimed that the operation violated their sovereign rights — and although (from the time of the Kampala talks, in May 1968) the FMG rejected most airlift proposals by proffering the alternative of a land corridor, governments and organizations felt that they could « safely » supply funds and material to the ICRC without jeopardizing their relations with the FMG. As a consequence, where governments were forced to act so as to placate public opinion, yet were they felt it essential to deny the Biafrans any legitimacy, the relief that they reluctantly donated was given through the ICRC. Some governments did support more than one of the airlifts (e.g. the United States, the Nordic Governments and the Government of West Germany) but the most cautious ones (the British, the Canadians, the Irish to name a few) channelled everything to the Red Cross. In this context it is worth noting that, contrary to popular opinion, the World Council of Churches threw its support behind the ICRC, not JCA. It was ambivalent at a number of points (and, at certain times, it made contributions to the consortium), but church interests in federal territory tilted the balance in favour of Operation INALWA. (Those WCC members who felt that a more dynamic response was needed simply broke with WCC policy by joining with Catholic groups to form and support JCA. \*)

The JCA airlift, which was in many ways a response to the frustrations generated by the ICRC's caution — its refusal to act before it exhausted all means of negotiating a relief agreement, the attention it paid to what others considered « the technicalities of international law » — appealed to a different constituency. It appealed to those who were more concerned with the speed and effectiveness of the relief operations than with protocol, to those who had little to

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\* Since the WCC has no control over the policy of its individual member churches, this « break » did not necessitate any church from withdrawing from the World Council. Nonetheless, by joining the consortium and thereby rejecting the WCC stand of supporting the ICRC, the consensus of the World Council was challenged.



lose by alienating Lagos, and, of course, to those who supported Biafra's political objectives. As with the Fernando Po operation, so with the Sao Tomé operation, its support base reflected JCA's operating principles. Unlike the ICRC, the consortium never attempted to get federal approval for its night flights. The churches justified this violation of Nigerian airspace in terms of a moral precept : a blockade — which results in widespread civilian starvation — is an illegitimate weapon of war and can, therefore, be broken. Furthermore, it was more prepared to compromise its « neutrality » in order to maximize its speed and effectiveness, despite the fact that it denied charges of partisan involvement. Thus, JCA cooperated with the Biafrans to enlarge Uli airstrip and to keep it operational and « safe » ; this, though Uli received arms planes as well as relief planes. Though the consortium had relatively strict cargo and passenger regulations, these were rather lax by comparison with the Red Cross. In particular, JCA felt that it had to permit some journalists to travel on its planes because its financial support depended upon keeping the issue of starvation on the front pages of the world press. Additionally, a number of JCA members did help in establishing a communications link between Biafra and the outside. Finally, the consortium was less cautious than the Red Cross in spending foreign currency in Biafra to maintain the effectiveness of the relief distribution network. In the light of this, it is not surprising that much of the funding for JCA was generated by church groups, by certain secular relief agencies (e.g. Oxfam), by citizen *ad hoc* groups that sprang up in response to the crisis, and by governments with a humanitarian tradition and no real stakes in federal Nigeria. However, even after the ICRC stopped flying, states or organizations afraid to risk a break with the Nigerians, refused to make donations to JCA. \*\*

If the four airlifts were ranged across a spectrum, from the pole of neutrality at one end to the pole of Biafran partisanship at the other, the ICRC's operations would be closest to the former pole, with the JCA operations at some distance removed from that, while

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\*\* Two notable exceptions to this must be pointed out. First, the U.S. Government, despite its pro-federal leanings, provided very substantial funding to the consortium, from December 1968 onwards. Had the American government not provided P.L.480 food, and had it not underwritten a large part of the airlift's operating expenses, it is doubtful whether JCA would have achieved half of what it did. America's stand is, however, too complex to analyze here. The second notable exception was the position adopted by UNICEF. The only United Nations agency to play a major role in the crisis, it operated through both the JCA airlift and the ICRC airlift. In so doing, it was strongly at odds with U Thant's pronouncements and policy.

the two Libreville airlifts would be in closest proximity to the latter pole. The French Red Cross operations were launched with the support of the French Government and it remained largely autonomous from all other relief endeavors. Given French Governmental support for the Biafrans, and given the fact that French arms were being flown in through the same route (if not on the same planes) as was the food, there was no real effort made to distinguish between French humanitarian and French political support for Biafra. Africa Concern's airlift — supported by an interdenominational (but heavily Catholic) appeal in Ireland, but not by the Irish government — did try to adopt a « neutral » position. However, its links with the Irish Holy Ghost Fathers in the enclave, the fact that its relief aid went almost exclusively to Biafra, and the fact that its officials were persuaded about the genocide argument — all these combined to make Africa Concern highly suspect to federal supporters.

### *The Effectiveness of the Humanitarian Response.*

Given the enormous outpouring of concern in Europe and North America, what was actually achieved by the Biafran relief operations? One measure of the « success » of the operations can be read in the following figures.

Airlift	Number of Flights	Metric Tons Delivered
ICRC April 1968/ June 1969	2,000 approx.	20,804
JCA April 1968/ January 1970	5,314	60,325
French Red Cross Summer 1968/ April 1969 *	163	1,070
Africa Concern April 1968/ January 1970	306	3,203
Total	7,783	85,402

\* Figures only available for this time period although the airlift continued until the end of the war.

All together, the four airlifts were able to deliver just over 85,000 tons of relief in about 7,800 flights. Was this a substantial achievement? We know that the relief shipments did help stem the rising starvation death toll. From the high of over 5,000 (possibly as high as 10,000) deaths per day in the late summer and early fall of 1968, that statistic dropped to a few hundred a day by June 1969. By that time, kwashiorkor was disappearing though the nutritional balance remained delicate. Just how delicate it was became evident when the ICRC stopped flying in early June 1969. During June/July 1969, JCA was forced to cut back drastically on its deliveries (for fear that its planes would be shot down) and the compound effect of these two factors was a rapid deterioration back towards the catastrophic situation of the previous year.

How many deaths the war and the starvation claimed is a highly contentious issue. Conservative estimates fluctuate around the one million mark ; others believe that well over two million perished, many of them children. Even more contentious than the death toll is the consequences of the relief operations. From the perspective of some, the airlifts to Biafra forestalled an even worse catastrophe. But for the intervention of the relief agencies, runs the argument, an entire generation of Biafrans would have perished. A second perspective (the one adopted by the Federal Military Government) renders a very different judgement. But for the intervention of the relief agencies, runs this argument, Biafran resistance would have broken a year earlier and countless lives would have been saved by the shortening of the war. We will examine these contradictory views in a moment. First, however, two other points must be made about the quantity of the relief aid delivered.

Since the magnitude of figures is hard to assess in isolation, some light can be shed on the « effectiveness » of the Biafran airlifts by comparing their achievements with a somewhat similar undertaking twenty years earlier : that is, with the Berlin airlift of 1948/9. In the case of the Berlin airlift, to supply some 2,100,000 Berliners over a ten month period, the British and American governments flew in approximately 185,000 planeloads of supplies amounting to 1,500,000 tons. To supply at least twice — possibly three times — as many Eastern Nigerians, and for a twenty-month period, the relief agencies could only manage to fly in a little more than a twentieth of that amount. According to the account of the British Air Ministry :

The combined Anglo-American airlift rose from June 1948 to reach an average daily lift of about 4,000 tons by the end of August. It flattened out at around that figure but fell in

November. Thereafter it rose steadily... and in early spring it touched a peak of well over 7,000 tons/day. (1)

The record twenty-four period of the Berlin airlift was a total of 1,398 planes which delivered 12,940 tons of supplies to Berlin's three airfields. By contrast, the record night for the Biafran operations was a night in March 1969, when JCA and the ICRC planes together completed 44 flights. Furthermore, the Berlin airlift averaged 5,000 tons per day over its duration ; the Biafran airlift averaged about 142.3 tons per day. Clearly, the latter pales when placed beside the former. (2)

The second point to be made concerns the generosity of the Western response to the crisis : i.e., what the relief aid amounted to in U.S. dollars. The best comparative statistics I have are calculated for contributions (both public and private) from the beginning of the war until July 1969, as follows. (3)

Contributing Country	Aid in Millions of U.S. dollars, until July 1969	Indices of Generosity	
		Aid per person in U.S. dollars	Aid as %age of per capita national inc.
United States	62.0	.32	.0073
West Germany	23.5	.39	.0131
Norway	13.3	3.50	.1482
The Netherlands	9.7	.77	.0388
United Kingdom	7.5	.14	.0079
Switzerland	7.3	1.21	.0439
Sweden	5.8	.74	.0223
Canada	3.7	.19	.0064
Denmark	1.9	.40	.0157
Ireland	1.7	.60	.0586
Other Countries	3.8		
Total	140.2		

In terms of the magnitude of the absolute contribution, the United States ranks first with \$62 million, with West Germany and Norway in second and third places, giving \$23.5 million and \$13.3 million respectively. That rank order changes considerably when aid is calculated on the basis of the dollars expended per person (i.e., in the donor country) : in this instance, Norway ranks first, followed by Switzerland and the Netherlands. The United States drops to

8th place and West Germany drops to 7th. If an index of generosity is calculated by taking aid per person as a percentage of the per capita national income of the donor, Norway remains at the top of the list ; Ireland ranks second ; Switzerland ranks third ; the U.S. drops to 9th place with Canada in last place. Yet, whatever the rank order, the most generous of the contributors gave only .1482 per cent of a year's national per capita income to help the starving in Nigeria/Biafra. For all of what was said of American generosity, any given American only contributed .0073 per cent of his annual National Income to the relief operations.

If contributions up to July 1, 1969, totalled \$140 million, the total aid contribution to the end of the war probably did not exceed \$200 million. Whether one considers this generous or not is, in large degree, dependent upon the values one brings to bear on the situation. \$200 million is approximately what American broadcasting networks estimated that they would lose in commercial revenues when they were banned from cigarette advertisement on television. \$200 million represented about five per cent of what Americans were spending on cosmetics or chewing gum in the early 1960's. The American contribution of \$62 million (til July 1969) was somewhat less than the \$70.8 million that the U.S. Air Force intended to spend on defoliants and other crop killers for fiscal year 1969. And, if one compares the \$200 million to the \$24 to \$30 billion that the U.S. was spending each year at the peak of American involvement in Vietnam, it seems a rather insignificant figure. None of this is intended to belittle the truly enormous achievement of the relief agencies. It does, however, provide some indication of the priorities of the Western World. \*

### *The Political Dimensions of the Relief Operations.*

The relief operations to Biafra, mounted largely in violation of Nigerian air space and in violation of the Nigerian blockade of the Eastern Region, were undertaken and justified in the name of « humanitarianism ». Yet, despite the assertion of those who mounted the operations, that the relief was *apolitical* — above politics so to speak — both the ICRC's Operation INALWA and JCA's Uli-Sao Tomé airbridges (not to mention the minor airlifts) were at the heart

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\* Some Third World Countries did contribute to the relief operations. However, given the fact that their resources are meagre, it is understandable that the dollar value of their contributions was small. This should not be taken to indicate a lack of concern although, by and large, African states considered relief as only a palliative. The real answer, as they saw it, was to end the war.

of intense political controversy throughout the war, and in the immediate aftermath. I will briefly outline those political dimensions here though they will be reexamined, in somewhat a more theoretical framework, below.

Nigerian objections to the airlifts were voiced both in terms of a general principle and in terms of specific charges levelled against the relief actors. The general principle that the FMG stood on was her sovereign right to blockade the secessionists into submission. From the perspective of Lagos, the relief actors were intervening in Nigeria's internal domestic affairs and were providing both material and psychological support to « the rebels ». Nigeria did not dispute the right of civilians (particularly women and children) to receive relief supplies, the « hawkish » statements of a number of military commanders and political leaders notwithstanding. General Gowon, however, insisted that his government had an equally valid right to determine how that relief should be sent in and to inspect all shipments before they were dispatched. In saying this, Gowon was, of course, denying the rebels any legitimacy as independent international actor. The women and children would be fed, but the price would be Ojukwu's acknowledgement of the power and the authority of the Federal Military Government.

In more specific terms, the Nigerians compiled a long list of charges against the relief actors. Their bill of particulars included the following items.

1. By treating with the « rebels » (i.e., by by-passing Lagos), the relief actors were according them legitimacy.
2. By their highly emotional appeals on behalf of the starving « Biafrans », the relief agencies were building sympathy and political support for the secessionists.
3. By supporting Ojukwu's persistent calls for a cease-fire, which would have redounded to the benefit of the « Biafrans », the relief actors were proving their partisanship.
4. By repeating Ojukwu's « false allegations » of genocide, the relief actors were unjustly vilifying Nigeria.
5. By portraying the struggle as a religious war between Christians and Moslems [as some were wont to do] they were distorting the truth.
6. The airlifts, in violation of Nigeria's airspace and without Nigerian authorization, were undermining Nigeria's negotiating position on relief. [This position took a variety of forms at different points in the war. Basically, however, the Nigerians favoured a land corridor for the delivery of relief. The Biafrans rejected this on the grounds that the Nigerians would take military advantage of the corridor. Of course, permitting relief through Niger-



rian hands would require that the Biafrans acknowledge their dependency on Lagos. This they were unwilling to do. Both sides were, thus, prepared to « play politics » with the lives of the starving.]

7. The relief shipments were providing material support to the rebels. [At various times, the Nigerians accused the relief agencies of transporting arms and military equipment, but there is no evidence to implicate JCA or the ICRC in such activity.]
8. The relief flights were providing a cover for the arms flights.
9. The relief agencies were spending large amounts of foreign currency in the enclave, and this gave Ojukwu the wherewithal to purchase arms.
10. Finally, the airbridges (and other communications facilities such as the Lisbon/Biafra radio communications link) undermined the Nigerian attempt to isolate the secessionists. The journalists carried by relief planes, and the relief workers themselves, were aiding and abetting the « rebel » propaganda machine.

Before turning to an examination of the manner in which the relief actors met these charges, it is necessary to take a rather more theoretical perspective on the problem of « humanitarian intervention » as a general phenomenon. Whether we adjudge the Biafran relief operations to have been an actualization of legitimate humanitarian concern, or whether we adjudge them to have been unwarranted intervention in Nigeria's internal affairs, depends not only on « the facts » of the case but also on our conception of the problem.

I propose to approach the issue by asking three interrelated questions. The first concerns the nature of humanitarianism : what constitutes an humanitarian act ? The second concerns the characteristics of foreign intervention ; and, insofar as the problem of intervention is closely associated with the problem of neutrality — whether there is a neutral position that third parties can assume with respect to a civil conflict — it is in this broad political framework that intervention must be examined. Finally, it is necessary to review the problem of intervention — specifically, that category of action which has been termed « humanitarian intervention » — from the standpoint of international law.

These three questions set parameters for a critical review of the Nigerian relief operations. However, anyone who is concerned with safeguarding civilian rights and civilian lives in the face of the violent conflagrations that seem so pervasive a feature of our world, would ask that the analysis go two steps further. He would ask that some attempts be made to confront the political problem of the conditions under which we can expect an humanitarian response by the international community ; and he would ask that we

confront the operational problem of how to maximize the effectiveness of humanitarianism. It is towards these ends that both the theoretical discussion and the case study analysis will be oriented.

### *The Nature of Humanitarianism.*

We may begin the analysis by noting the *Oxford English Dictionary* definition of the adjective « humanitarian » as « having regard to the interests of humanity and mankind at large. » In common usage, an humanitarian act is often distinguished from a political one in that, in its concern for mankind in general, it is assumed to be divorced from partisan interest or advantage. Thus, an humanitarian is portrayed as a person who acts, not because of any expectation of personal material gain, but because he is moved by a regard for the welfare of others. Notwithstanding the fact that the humanitarian may derive substantial moral or psychological satisfaction from his « altruism », he is considered to be above the political fray ; to stand aloof from the struggle for power and influence.

There are a number of shortcomings with this assumed dichotomy between humanitarian and political categories of action. The first concerns the question of whether the goal or objective of humanitarian action can really be considered apolitical. When concern for « humanity in general » is examined from the perspective of practice rather than theory, « humanity in general » often means the « powerless » or the « underdog » — not mankind in the abstract, but a portion of mankind. There is ample historical evidence to support the proposition that, historically, humanitarianism has been closely identified with the struggle of the underprivileged and the politically dispossessed. Frequently, the assertion of human rights has been synonymous with the assertion of the rights of the poor in opposition to the privilege of the rich, as with respect to the struggles for universal education, adequate medical care and welfare benefits for the marginal man, or a just labour wage. Just as frequently, the assertion of human rights has been synonymous with the assertion of the rights of the politically or socially oppressed. When humanitarians took up the issue of freedom of political expression, it was on behalf of those being persecuted for their beliefs ; when they took up the cause of religious tolerance, it was on behalf of persecuted minorities ; and when they took up the cause of racial equality, it was on behalf of a vulnerable minority or a powerless majority.

What is significant in this identification of the humanitarian and the underdog is that, in the attempt to actualize his concern for the interests of mankind, the humanitarian has not remained outside the political arena and has not been able to avoid partisan

identification. Rather, in support of what he considered to be fundamental human rights, the humanitarian recognized the need for entering the political struggle and throwing his weight on the side of the dispossessed. While individual humanitarian acts (e.g. giving to charity) may be non-political, an historical perspective on attempts to promote or protect human rights underlines the political nature of these endeavors. Indeed, it would be strange if this were not the case as the concern for human rights has centered on the need to protect the individual from the power of the state.

A second problem with the dichotomy between political and humanitarian action emerges if we consider the motivations of the humanitarian. Here, what is at issue is not whether the action can be motivated by a concern for mankind in the abstract (as against a concern for a particular grouping of men), but whether the motivations of the humanitarian are really divorced from self-interest. From one perspective, it is possible to judge the intrinsic nature of an act in contradistinction to the motivations of the actor. Thus, we might argue that a church, taking a stand against apartheid, was taking an humanitarian position ; and the nature of that position would not be changed if we learned that the church was motivated less by a concern for the treatment of South African blacks and more by the hope of getting funds from a philanthropist who would favour such a stand. On the other hand, in judging the *actor* as against his *act*, the issue of motivation becomes central.

This is, of course, never an easy problem for if we cannot rely solely on what people and organizations do, neither can we rely on what they say. We know that individuals and organizations often mask their true motives behind high-sounding principles, and this point need not be belaboured. Yet, there is an aspect of the motivation question which does require attention. Social science suggests that groups and individuals seldom act because of one clear-cut and impelling motive. More often than not, what we find when we analyze individual or group behavior is a complex matrix of motivating factors. The actors may not even be conscious of all the diverse elements that combined to produce their particular response or policy. It is true that, in certain limited instances, we may find relatively pure humanitarianism : for example, a Christian family giving shelter to a Jewish child in Nazi controlled Europe. However, history teaches us that there are very few Saints. We can, therefore, forward the hypothesis that the incidence of pure humanitarianism will be relatively low as compared with what we may call partial humanitarianism : action motivated only in part by a regard for the interests of mankind. Stated differently, what we can expect to find when we examine behavior that is professed humanitarianism is a

mix of concern for humanity in general and self or partisan interest.

Additionally, we may forward a second and related hypothesis : namely, that pure humanitarianism will be more frequently manifested in the acts of individuals than in the acts of organizations. The latter, particularly after they have developed large and established bureaucracies, become highly concerned with organizational survival. The classical statement on such goal-displacement is R.K. Merton's and it is now a well-accepted « law » of organization theory. What need, merely, be added is that this tendency is perhaps epitomized in the behavior of states. Thus governments will resist humanitarian involvement if this can be seen to jeopardize economic or political (i.e. survival) interests. Furthermore, when we deal with states, we can expect to find humanitarian ends given the greatest support if there is a convergence between political and economic concerns on the one hand, and humanitarian concerns on the other. Therefore, a high political/economic content may be present in the motivational mix without negating the humanitarianism of the act. Indeed, as Richard Bilder has pointed out, the advancement of human rights may be dependent upon a fortunate convergence between the realm of the political and the realm of the humanitarian.

« It seems clear that what are generally classed as political factors loom large in determining what governments are prepared to do in the international human rights area... Moreover, while political influences generally act as constraints on international action, they may also have the opposite effect, resulting in innovation and development beyond what would normally be expected. The broad scope of United Nations anti-apartheid efforts is the obvious case. The argument that human rights efforts might be furthered by mobilizing their innate political potential should not be too easily dismissed. After all, if we can persuade governments to support international human rights objectives, it may make little difference that they do it for political rather than humanitarian reasons. » (4)

Clearly, then, we may judge acts to be humanitarian even if politically motivated and it may, often times, be difficult to assess the motivational mix behind the action.

The final, and perhaps the most serious, problem with the dichotomy between the political and the humanitarian concerns the consequences of humanitarian acts. What is argued here is that, even if an individual or organization acts out of the purest of motives, and even when the act — narrowly construed — is considered an humanitarian one, both the action and the act may, nonetheless, be political because of the consequences that follow from them. The example of the 1964 Stanleyville rescue is a case in point. If we assume that

the Americans and the Belgians did, indeed, intend this as a humanitarian and « apolitical » operation, the fact remains that it helped Tshombe reestablish control over Stanleyville. (5) Similarly, the UN operations in Pakistan during the 1971 civil war, despite their intended « neutral » character, nonetheless served to legitimize the regime of the West Pakistanis and operated to the detriment of the guerrillas. (6) The problem of political consequences is, of course, closely linked with the first problem discussed : the difficulty of identifying with the interests of humanity as distinct from a portion of mankind. For to the extent that humanitarianism reflects an identification with, or the strengthens the position of any particular grouping of men, to that extent it is political.

### *The Nature of Intervention.*

The issue of foreign intervention in the internal affairs of other states has been a central problem for students of international politics ever since the consolidation of the nation-state system on the basis of the sovereign equality and political independence of states. In many ways, the problem has been one of a double-standard for, while traditional international law has enshrined the principle of non-intervention, traditional international relations are replete with examples of the intervention of powerful states into the affairs of weak ones. Furthermore, confusion abounds over the meaning of intervention and over those circumstances in which it can be considered justifiable.

The classical legal definition of intervention is Lauterpacht's to whom intervention signifies « dictatorial interference in the sense of action amounting to a denial of the independence of the State. It implies a peremptory demand for positive conduct or abstention — a demand which, if not complied with, involves a threat of or recourse to compulsion, in some form, though not necessarily physical compulsion. » (7) Though still cited by many scholars, this definition is considered too narrow and restrictive by many political scientists and statesmen. As Falk has written :

The frequent practice is to define intervention by reference to the use or threat to use force. This is an adequate definition to reach such flagrant violations as those of 1956 in Hungary and in the Suez. However, it is not very adequate as a comprehensive definition for it ignores the modern techniques ranging from subversion to hostile propaganda that are used to undermine the internal autonomy of another state, and it is this autonomy that is at the center of the effort or nonintervention to preserve the independence of states. (8)

However, if traditional international law has offered a definition

that seems too narrow, a number of political scientists have offered a definition that seems too broad. In this context, we may note George Modelski's argument with regard to the inevitability of great power intervention in civil wars. Beginning with the proposition that the outcome of a civil war is always dependent upon the responses of third parties, he concludes : the « alternative of nonactivity or *nonintervention* [on the part of third parties] does not exist because inactivity or *nonintervention* must be interpreted as encouragement of the stronger party in internal war. » (Emphasis added.) (9) Manfred Halpern has commented in a similar vein on the inevitable, though inadvertent, effect of the policy of states on the internal affairs of other states. « Almost everything that a powerful nation does (or almost everything that a weak nation... is powerless to do) vitally affects the internal affairs of other nations. A great power *intervenes* in the domestic realm of other states when it says 'yes' and when it says 'no', by its sheer existence. » (Emphasis added.) (10).

Modelski and Halpern provide an important insight into the interdependent nature of the current international system. However, broadening the concept of intervention to include all policy (even a policy of inaction) muddies the issue. As James Rosenau has pointed out, our definition of intervention must be « broad enough to identify those phenomena that are generally associated with the term and yet not so broad that it fails to discriminate them from other aspects of international politics. » (11) A definition that seems to meet these criteria is provided by Oran Young. In his usage, intervention means « organized and systematic activities across recognized boundaries, aimed at affecting the political authority structure of the target. » (12) What young underscores in the requirement that intervention be considered as more than inadvertent or haphazard activity : that it must be organized and systemic. Additionally, it must be initiated with an eye to impacting on the political authority structures (governments or regimes) of other states — to bolster or undermine them. (13)

Young's definition does, however, pose a problem. It requires that the analyst undertake an analysis of motivations and this raises questions similar to the ones faced when trying to make a determination about the humanitarianism of an actor. An action can only be judged to be intervention if it is consciously conceived to affect the authority structure of the target. This brings us back to the Modelski/Halpern problem, though in a somewhat different form. What we are concerned with here is not a policy of inactivity, but a policy which has unintended or inadvertent consequences which are indistinguishable from the consequences of intervention : for exam-



ple, the fact that relief aid to the Biafrans bolstered the Biafran regime. If we reinterpret Modelski and Halpern in the light of a more restrictive (i.e., Young's) definition of intervention, we are forced to recognize that even non-interventionist policies may not be neutral in terms of their consequences, in the political (not the legal) meaning of neutrality. For example, when two parties intercede to try to bring belligerents to the negotiating table, this can have the effect of strengthening the party that is weakest on the battlefield. It is not a neutral policy but it is not intervention unless it can be shown that pressuring for negotiations was a consciously chosen strategy to bolster the position of one of the belligerents.

Given the difficulty that third parties have of maintaining a posture of political neutrality in the face of a civil war ; and given the fact that determinations of intervention rest on what is usually a subjective assessment of motivations ; and, finally, given that charges and counter-charges of intervention are part of the stock ammunition of the propaganda battles that accompany shooting wars, it is understandable that antagonists will seldom agree on whether or not third party responses to a civil war constitute intervention.

### *Humanitarian Intervention.*

While non-intervention is one of the cardinal principles of the international legal order, there are certain circumstances in which intervention has been justified in both legal and moral terms. We are concerned here with one category of justifiable intervention — that undertaken in the name of humanitarian principles. (14) The general assertion in this case is that « the doctrine of absolute sovereignty did not insulate states from interference by the international community when human rights violations reached shocking proportions. » (15) This notwithstanding, a quick scan of the literature reveals that, as with intervention in general, so with humanitarian intervention in particular, there is a large measure of disagreement on the circumstances under which it may be sanctioned. Additionally, given the current flux in the state of international law and the scholar's concern with defining a new international legal order, we find highly divergent views on the advisability of establishing the right to humanitarian intervention in different contexts.

One factor becomes immediately apparent from this survey. Almost all of the writings on humanitarian intervention focus on intervention as defined by Lauterpacht, not Young : that is, writings focus on the threat or use of force to safeguard human rights. By and large, scholars (though not statesmen) seem agreed that non-

military means of « intervention » — e.g. debating the issue in international forums, investigating charges of human rights violations, the passing of resolutions in different organizational contexts, and even economic pressure — is legitimate, if the objective is the cessation of human rights violations. This consensus is most apparent, perhaps, in treatments of international pressure on the South African regime, to end its policy of apartheid. As long as states stop short of unilateral military intervention, it is a rare and lonely voice that questions the legal and moral rights of third parties to respond negatively to the South African regime. But, where military action outside the framework of Chapter VII of the United Nations Charter is proposed, the consensus breaks down.

It should be noted that, in the Nigerian situation, statesmen did not act as if they recognized this « academic consensus ». Initially, Nigeria considered any international discussion — even OAU discussion — of the crisis to be unwarranted intervention in her domestic affairs. Later (when it became clear that the OAU would support the goal of Nigerian unity), the FMG recognized the legitimacy of African concern. However the Nigerians, most African states, the Soviet bloc, many Western governments and even U Thant resisted pressure for a United Nations consideration of the crisis in general, and its humanitarian aspects in particular. Though the Biafrans presented a petition to the United Nations Human Rights Commission, detailing the charge of genocide, the Commission took no action on it.

It is, of course, true that when one examines the arguments that would deny the legitimacy of international concern and international action (particularly action short of military intervention), one finds somewhat less of a legal argument than a pragmatic one : namely, that bringing the case to the U.N. would inflame the situation, not dampen it. Furthermore, even the legal argument does not reject the principle or the right to humanitarian intervention. It turns, rather, on a question of fact : to wit, that Nigeria denied that there were humanitarian issues involved. Furthermore, the proposition that the Nigerians did not — in a blanket way — deny the right of the international community to investigate allegations of human rights violations is supported by the fact that an international observer team was created (albeit at Nigeria's invitation and with the FMG's approval) and sent to federal territory. Chief Anthony Enaharo (Nigeria's Commissioner for Information), was later to draw conclusions from this that contradicted all Nigerian arguments that international investigation involved a violation of sovereignty. « Our war », he said, « has set the seal of approval on the idea of international umpires in a localized war. It may be that future localised

wars will now be fought according to the rules established in the Nigerian case ». (16) Whether the International Observers were, as Enaharo suggests, really impartial umpires, or whether they were (as other have suggested) merely apologists for the FMG is a highly contentious issue. But Enaharo's statement seems to reaffirm the precedents created with respect to Southern Africa : that the international community has the right to investigate, to act where human rights violations appear gross.

Be that as it may, when we come to the issue of forceful intervention, and particularly to unilateral military intervention (on the grounds of humanitarianism), disagreements become evident in the writings of scholars as well as in the pronouncements of statesmen. The nature of the disagreements can be illustrated by examining the contradictory positions of Michael Riesman, on the one hand, and Franck and Rodley, on the other. Riesman, taking a positive stand with respect to the right of forceful intervention, puts his case in the following terms :

« ... international policy even before Grotius has been firmly and continuously for humanitarian intervention in those extreme cases where the most minimal of human rights were in jeopardy. The forceful intervention in such circumstances in the territory of another state is permissible and, for signatories of the Charter and the Genocide convention is mandatory. The effect of the United Nations Charter has been to develop a coordinate set of competences. In circumstances in which an authoritative organ of the UN or of a relevant regional organization can either not act or not act with sufficient dispatch, individual or coordinated collective non-UN humanitarian intervention is permitted as a substitute or functional enforcement of international human rights. » (17)

For their part, Franck and Rodley argue that « neither historic nor the contemporary practice of nations in the least sustains the proposition that there is a general right or conventional practice on the part of a state to use military force to intervene for genuinely humane purposes. Similarly, none of the resolutions, declarations, or Conventions on human rights in any way purports to extend this right. On the contrary, the United Nations has made it clear that such unilateral use of force is wholly illegal. » (18) In their review of 19th and 20th century situations in which intervention has been justified on humanitarian grounds, they conclude that these humanitarian interventions were largely sham. States intervened to protect political or economic interests, and used humanitarian rationales to mask their motives ; and, where there were legitimate grounds for inter-

vening to protect human rights, states preferred not to act unless it could redound to their political or economic advantage.

Between the positions of Riesman and Franck/Rodley are a number of points of disagreement. First, Riesman considers the question of the circumstances calling for humanitarian intervention as relatively unproblematic. Franck and Rodley do not. To those who would sanction humanitarian intervention, they put the question : « *What* kinds of acts against *which* human rights, under *what* circumstances and on *what* scale are hereafter to be sufficient in law to warrant the use of military force, by *which* outside power or powers, and under *what* safeguards and controls ? » (Emphasis in the original.) (19) They then carry their questioning further :

« Trying to define ' humanitarian ' gives an indication of the drafting task that lies ahead for those who favor legal immunity in future instances of humanitarian intervention. Does the scope of humanitarian intervention encompass all « human rights » or only *some* ? If so, *which* ? Is self-determination within its ambit ; are other political and economic rights, or only the right to life ? Is the right to intervene to be limited to situations of actual large-scale losses of life or does it also extend to the imminence or apprehension of such losses ?... » (20)

Many of these questions had relevance to the Nigerian situation and will be examined below. Second, Riesman and Franck/Rodley disagree about the methods that can be used to enforce human rights. While the former is willing to sanction the use of force — even the unilateral resort to force — the latter are not willing to permit force to be employed outside the security provisions of the UN Charter. (This notwithstanding, Franck and Rodley do concede that, under certain conditions of extreme necessity — e.g. fighting Naziism — the unilateral resort to force can be *morally*, though not legally, justified.) (21)

At the root of these differences we find different conceptions about the requisites for international peace and stability on the one hand, and international justice on the other. Yet it would be an oversimplification to state that Franck and Rodley prefer peace and stability over justice while Riesman prefers the reverse. It would be more accurate to say that the former consider peace to be the requisite for human rights while the latter consider human rights to be the requisite for peace. And when we go beyond these scholars to consider the position of political scientists and statesmen, the picture becomes somewhat more rather than less confusing. If, for example, we consider the position states adopted with respect to the Nigerian Civil War in comparison with the position they have adopted on Southern Africa, inconsistencies become glaring. Thus, while

all OAU members sanction intervention in Southern Africa on humanitarian grounds, these same states (the four who recognized Biafra excepted) placed stability over all other considerations in the West African context. By contrast, while France and Portugal constantly appeal to article 2 (7) to attempt to block UN humanitarian intervention in Southern Africa, they forwarded humanitarian arguments to justify their support of Biafra.

It seems clear, then, that states manipulate international law to justify policy based on « national interest ». Furthermore, the fluid state of present day international law suggests that scholars currently expounding doctrine are not so much describing established principles as they are pleading for the acceptance of the requisites of a stable and just order, as they see it. As a consequence, it is not possible to provide a set of objective and generally agreed upon criteria against which to judge a case of alleged humanitarian intervention. The best one can do is to judge subjectively according to the set of criteria that one favours. This dilemma comes into focus as we turn back to the Nigerian case study.

### *The Nigerian Civil War and the Question of Humanitarian Intervention.*

Let us remember that the Nigerian Civil War had several humanitarian dimensions to it. The issue of Biafran national self-determination, which we will not treat here, was an issue insofar as Biafran recognition was justified in humanitarian terms. The issue of genocide — perhaps the most contentious issue of the war — does require some attention. It will be recalled that, prior to the emergence of the starvation, the Biafran case against the FMG was made in terms of massacres and indiscriminate bombing — charges the FMG dismissed as propaganda. Moreover, the Nigerians accused those who repeated Biafran charges, or who pressed for international investigation, of intervening in her internal affairs. What was, and what should have been, the response of those concerned with safeguarding human rights? Three points can be made in this regard.

First, the issue of genocide was in many ways a red herring, though a very inflammatory one. To justify humanitarian intervention, it was not necessary to prove genocide: only that human rights were being grossly violated. Of course, the cry of genocide was used because of the difficulties pointed out by Franck and Rodley: what human rights have to be violated, and how gross such violations be, before intervention is justified? Since genocide has been

declared a crime against humanity and is universally acknowledged as the most deplorable of crimes, to establish genocide would be to obviate the need to answer those questions. Yet genocide — a term first used in 1944 and coined to describe the calculated extermination policies of the Nazis — is extremely difficult to prove before the fact. Furthermore, it is extremely difficult to substantiate because it turns on the question of *intent*. With Hitler, the intent was obvious even if some efforts were made to cover it up. However, since the Genocide Convention was drafted in 1948, no state — regardless how brutal its rule — has dared to flaunt its killings, tortures or repressions in the face of international public opinion. In the Soviet Union's ideological justification for the invasion of Czechoslovakia, in the elaborate American rationale (« we are protecting democracy in Asia ») to justify its barbaric bombings in Indo-China, and in South Africa's embellished theories of « separate development » through the Bantustans, we see the lengths to which states will go to cover their deeds.

But, if it is not necessary to establish genocide — just shocking human rights violations — there are, nonetheless, serious problems involved in making such a determination. The issue is, perhaps, easiest with respect to the question of civilian massacres, if evidence for this can be uncovered. (In Nigeria, it should be noted that it was not only the Biafrans who charged the federal troops with perpetrating massacres, but also the Nigerians who claimed that Biafran soldiers were massacring recalcitrant « minorities » who supported the federal cause.) For there would be few statesmen or scholars who would dispute that this constituted war crimes, unless the issue was complicated by the dimension of guerrilla warfare, where clarity begins to fade. (22) Yet, the question of indiscriminate or attrition bombing, though it may destroy far more people just as callously, is more nebulous than the case of the moral conduct of the soldier on the ground. At the heart of the issue is the General's justification in terms of military necessity. And, although the revisionist historian may prove to his, and to my, satisfaction that the atomic bombing of Hiroshima and Nagasaki was not necessary to effect the surrender of the Japanese and save the lives of « our American boys », the fact remains that states have been unwilling to limit the range of « legitimate » instruments and tactics of warfare. While there have been a variety of efforts in recent years to update the Geneva Conventions on war, to outlaw certain weapons and certain modalities for conducting warfare, no international consensus has emerged on either the laws of aerial warfare or on the extent to which « military necessity » must be subordinated to humanitarian considerations. Because this is the case, it is not difficult to under-



stand why the Nigerians would have considered efforts to regulate their war strategy as evidence of a double standard.

The second point that must be made about the genocide argument concerns the right of the international community to investigate. We have already commented on the fact that the Nigerians permitted an international observer team to tour the fronts, from the fall of 1968 until the end of the war, and that the role that team played was highly contentious. Time does not permit a detailed analysis of that role but a few observations might be made. First, the team was invited by the Nigerians to « bear witness to the fact that Federal troops will not go into rebel-held areas to 'massacre' Ibos » (23) ; it was to exonerate the FMG, not to investigate it. Second, the team restricted its observations to the federal side of the lines and did not accept a Biafran invitation to visit the enclave. Its terms of reference and its geographical limitation, made it virtually impossible for the observer group to make an impartial and objective determination on the question of human rights violations. Yet, had the United Nations or the OAU pressured the FMG to extend the terms of the team's mandate, Nigeria would have considered this as according the « rebels » legitimacy and would have moved to expel the team. The international community would then have been confronted with the need to use force to investigate the genocide charge.

Which leads to the last point to note about the genocide issue. At no time was the use of force seriously contemplated with respect to the genocide charge. There was some discussion about the possibilities of a peacekeeping force, but only if the proposal were accepted by both sides. If we move to the question of, *should there have been* forceful intervention, there are clearly two opinions marked by the gulf separating Riesman and Franck/Rodley. Rather than forwarding my own opinion at this point, I will reserve my judgement to the question that seems more central to me in the context of this study : whether intervention was justifiable in the face of the widescale starvation which also brought the charge of genocide.

#### *Humanitarian Intervention and the Starvation Issue.*

As we return to the issue of starvation and the relief operations, it becomes necessary to draw together some of the theoretical propositions forwarded above with the empirical data presented, so that we can answer the three questions that have been implicit in this paper. Were the relief operations really a manifestation of humanitarianism ? Were the Nigerians justified with charging the relief agencies with intervention ? And, if so, did the relief operations

represent « justifiable » intervention : i.e., humanitarian intervention ?

In responding to the first question, it seems clear that it is unnecessary (and impossible) to make the case so often made during the war : that the relief operations were not *political* but humanitarian. In fact, each of the three difficulties with the political humanitarian dichotomy were clearly evident during the Nigerian crisis. In identifying with and generating relief for the starving Biafrans, the relief agencies seemed to be identifying with and generating support for Biafra. In acting to protect basic human rights, it was hard to avoid the label of partisanship. Additionally, the question of motivations was problematic. Not all of the relief actors and their supporters were motivated by pure humanitarian concerns. While there certainly was a strong humanitarian component in the motivational matrix of the individuals and organizations involved, Church concerns were important in the JCA operation, domestic political pressure was what most moved states to respond, and organizational considerations were evident in determining the shape of the humanitarian response. Third, and most important, the relief operations did have political consequences.

Because of the inherent political nature of the relief operations, many of the charges the Nigerians levelled against the relief agencies were not entirely without foundation. Yet the relief agencies were able to rebut the Nigerians on a number of significant points. They argued, for example, that the « material support » they were providing the Biafrans in the form of relief aid and in the form of foreign exchange expended in the enclave was more than equalled by the relief aid and foreign exchange being expended by them in Federal territory. Furthermore, from the perspective of the relief agencies, it was impossible to assess the consequences of the relief programme in isolation from foreign aid in general. Whatever the relief programme contributed to the strengthening of the Biafrans in a political or military sense was insignificant by comparison with the effect of the military aid being given both sides. In retrospect, it is hard not to agree that the some 85,000 tons of food counted little against the tonnage of hardware third parties injected into the battle.

The point that the relief agencies had the greatest difficulty in rebutting was the fact that, in dealing with Ojukwu's regime, in maintaining a communications link between the enclave and the outside world, and in supporting the calls for a cease-fire and negotiations, the relief agencies were lending moral and psychological support to the secession. Yet there seemed no alternative course of action. Joint Church Aid recognized, and gave expression, to this dilemma

in December 1969, when the consortium was being pressured by the World Council of Churches to stop the airlift.

« The relief work to the blockaded area of Biafra stands out because of the necessity of bringing in the food and medicines by the dangerous and expensive operation of an airlift by night... At the start this was meant to be a short-term operation to save people while time was gained for the United Nations, inter-governmental and governmental attempts to stop the war or to establish far bigger and better relief methods that could respond efficiently to the massive needs of the affected civilian populations...

The organizations participating in Joint Church Aid all recognize that relief work has political side effects. This is true of relief work in Nigeria as in Biafra, but they do not see that they are left with any choice... To stop the airlift now would not only have political consequences, but also result in the death of millions of innocent civilians. It would establish starvation not only as a legitimate weapon of war but also as a partisan tool in the hands of groups pursuing their own motives. » (24)

What, then, are we conclude about the humanitarianism of the relief operations? Despite its highly political nature, it does seem that it must be adjudged as the actualization of concern for the violation of basic human rights — the right of a non-combatant to be insulated from the ravages of warfare. (In the end, of course, this involves a subjective evaluation of the motivating forces behind the operations.) Yet, at the same time, it does appear certain that the relief operations constituted « intervention » within Young's meaning of the term. That is, we had here organized and systematic activities across state boundaries; and there was an attempt to impact on the authority structure of Nigeria, at least to the extent of producing a change in Nigerian policy, i.e., lowering the blockade. From the point of view of Lauterpacht, the issue is not so clear for the relief operations never involved the use, or the threat of, force. There were various proposals made during the war for the employment of force: for example, the proposal that a land or sea corridor should be opened by third parties, or the proposal that military escorts should accompany the relief planes. But these suggestions were not proffered by the relief actors and nothing ever came of them. That this was so goes a long way to simply a response to the last question: did the relief operations constitute « justifiable » intervention?

The answer to the question turns, it seems, on the response one makes to a prior question: is blockade a legitimate weapon of war? If it is not, then the relief operations were clearly justifiable. If one makes the case rest on the interpretation of article 23 of the

Fourth Geneva Convention — recognizing the right of a blockading nation to determine how relief aid should be sent to civilians — the issue becomes more complex. In effect, one must then make a moral rather than a legal argument : that sovereignty can be overridden when human life is at stake. And, in the end, it was on moral rather than on legal grounds that the relief operations were justified.

*Lessons from the Nigerian Crisis.*

We now arrive at the point where it is necessary to go beyond the case study at hand to see what lessons there are to be learned from the Nigerian/Biafran relief operations. Our concern here is with the protection of human rights, even in the face of the de-humanizing condition of war ; and the first question posed is the problem of the conditions under which we can expect an humanitarian response by the international community. Let us begin by acknowledging a number of factors given weight by the Nigerian case study. First, humanitarian issues are seldom clear-cut and they become murkier when either the belligerents or third parties begin to use them for propaganda warfare. Under those circumstances, the right of the international community to investigate charges of human rights violations will become a highly contentious issue with the accused usually pleading both innocence and the inviolability of his domestic realm and with the accuser appealing to the international law of humanitarian intervention.

Yet, unless human rights violations becomes an inflamed international « issue », it is unlikely that governments will take the initiative to act on humanitarian grounds unless there is a favourable convergence between their political and economic interests and the humanitarian one. Otherwise, governments will be content to remain « unaware » of the situation so as to avoid the need for a response. The ease with which the world ignored human rights violations during the civil war in Chad, or the Burundi and Rwanda massacres, or Amin's liquidation of his opposition in Uganda, all provide confirmatory evidence on this point. In the Nigerian case, it was certainly *not* governments who took the initiative in the humanitarian arena, excepting where (as with France) the humanitarian and the political dovetailed. The obverse situation suggests a second hypothesis : that governments will most strongly resist suggestions for humanitarian intervention if they perceive such intervention to be a threat to their political and economic interests.

Nonetheless, governments may be pressured into action by moral outrage on the part of their citizenry — at least, in relatively open societies. Obviously governments respond to public pressure in dif-

ferent ways, but if that pressure is strong enough, governments become hard-pressed to justify indifference in the face of calls for action. Or course, how an issue becomes an « issue » is a problem that political scientists have not yet effectively grappled with. We suspect that there is a time factor involved : thus, the Teapot Dome, My Lai and Watergate all took about a year to develop. There is also a factor of chance : in the summer of 1967, Nigeria was relegated to low spot on the totem-pole because of the Suez crisis. The power of the press is, certainly, important though we badly need more research on the manner in which something becomes « the big story ». Equally relevant is the role of domestic interest groups and transnational actors concerned with human rights issues. When all of these effectively combine to generate a « humanitarian crisis », then the inertia of governments may be overcome.

This factor was one of the most prominent aspects of the Nigerian/Biafran relief operations. It was not governments but non-governmental actors — the relief agencies, the churches, and *ad hoc* organizations which sprang up in Europe and North America — which initiated the relief action and played the role of gadfly, shaming governments into a response. While traditional interest group politics were used to generate government support, simultaneous to this we had a by-passing of governments whereby transnational actors impacted directly on the conflict area. Operating on both fronts, they were able to produce a climate of opinion and the instrumentalities for a humanitarian intervention.

It was, of course, precisely on these grounds that the relief actors and the press were strongly criticized : for exaggerating the dimensions of the starvation, for crying genocide, and for simplifying and distorting the stakes of the war. In a number of respects, these criticism were wholly justified. Yet, there is an inherent dilemma involved in the situation. With publics so immune and so de-sensitized to brutality and the horrors of war, how else does one reach them except on the level of hyperbolic emotion ? This is not said to justify the tactic but it is said to raise the question of tactics.

It also leads us to the second major question raised by the study : how can we maximize the effectiveness of humanitarian response ? In this regard it seems essential to recognize the almost inevitable political dimension inherent in any attempt to protect human rights, particularly rights that are being violated in the course of a war. Confirmatory evidence for this is provided by the relief operations undertaken by the United Nations during the 1971 Pakistani War. Just as the relief agencies in Biafra found that the civil war defied their attempts to remain politically neutral, so too did the United Nations : in the latter case, however, the operations



served to legitimize the Pakistani Government in its suppression of the Bengalis. If relief, or other forms of ensuring human rights, is almost inevitably to be political, then we can forward the following proposition with some assurance. Those who have been arguing for the establishment of a neutral relief administration, an international body that can respond to disasters of nature or war in a non-partisan and apolitical manner, seem to be playing the ostrich. A body as « neutral », as « non-political », and as « non-partisan » as the ICRC was unable to maintain its equilibrium in the Nigerian situation. Why, then, should we expect a United Nations Emergency Assistance Service to be able to perform better ? (25)

This is not to say that there is no point to perfecting the international machinery through which the international community can respond. Indeed, since the availability of machinery probably does increase the likelihood of an *effective* response, once the decision to respond has been taken, efforts to strengthen the UN Emergency Assistance Service should be encouraged. We should, perhaps, also try to effect the suggestion of Professor Karel Vasak, to create a United Nations High Commissioner for Human Rights, so that there should be a body « capable of dealing with human rights on a world-wide scale, without reference to the level — national, regional or universal — at which these rights operate. » (26) Additionally, we may applaud efforts to redraft the laws of war if such redrafting can be precise in outlawing the barbaric weapons and tactics employed with such impunity today. Yet, all of these suggestions miss what seems to be the most important lesson taught by the Nigerian Civil War : that without the political support for it, there will be no humanitarian response.

Richard Bilder seems to have recognized the significance of this in the citation (made early in this paper) : namely, that we must find ways to mobilize the innate political potential of humanitarian issues if we are to get an effective humanitarian response. One strategy through which this can be effected requires that we shift our focus away from governments and inter-governmental agencies as the prime *initiators* of humanitarian action to concentrate on those groups and tactics which can be employed to move governments to action.

The Nigerian Civil War provides some indication of the potential effectiveness of such a strategy. Of course, the rather limited accomplishment of the airlifts (when measured against the Berlin airlift) demonstrates the limitations of this approach as well. With the meagre resources of such transnational actors as churches and relief agencies — meagre in comparison with the resources at the disposal of governments — what they can do is circumscribed. Indeed, without



governmental support (particularly the financial support of the United States), it is doubtful that even half as much relief would have been flown into the enclave. Yet the Nigerian situation demonstrated that governments *could be* moved to action, and/or to some extent by-passed, through the generation of a moral issue. This suggests what should, perhaps, be the major priority of the human rights struggle : how to make political interests and humanitarian concerns congruent. I concede that this raises more questions than it provides answers. It may, however, help reorient thinking away from a focus on the machinery and towards a focus on processes.

## NOTES

(1) Great Britain Air Ministry, *The Berlin Airlift*, (London : 1949), p. 39. The other figures cited for the Berlin airlift are taken from the same source, pp. 37-39.

(2) The statistics for the Biafran airlift have been compiled from a wide variety of organizational reports and publications, and footnoting them would be copious. To see how these statistics were arrived at, the reader may refer to my dissertation on the relief operations, *op. cit.*

(3) The aid figures were taken from an unpublished estimate of the U.S. Agency for International Development. Nigeria Relief/Rehabilitation Operations, A.I.D., *Contributions to Nigeria Relief*, annex I, July 1, 1969 update. (Washington, D.C. : 1969). In calculating the « indices of generosity, population figures were taken from the *World Almanac*, 1967, and per capita national income figures were taken from the *Statistical Abstract of the United States*, 1967.

(4) Richard Bilder, « Rethinking International Human Rights : Some Basic Questions. » *Human Rights Journal*, Vol. 2, n° 4 (1969), pp. 601-2.

(5) For a more detailed treatment of the Stanleyville « rescue », see Richard A. Falk, *Legal Order in a Violent World*, (Princeton : Princeton University Press, 1968), pp. 242-55.

(6) In this regard, see Desaix Myers III, « Civil War in Bangladesh : Relief Planning and Administration in an Insurgency Situation. » in Lincoln C. Chen, *Disaster in Bangladesh*, (New York : Oxford University Press, 1973), pp. 206-24.

(7) H. Lauterpacht, *International Law and Human Rights*, (New York : Praeger, 1950), pp. 167-8.

(8) Falk, *op. cit.*, p. 160.

(9) George Modelski, « The International Relations of Internal War. » in James N. Rosenau, (ed.), *The International Aspects of Civil Strife*, (Princeton : Princeton University Press, 1964), p. 31.

(10) Manfred Halpern, « The Morality and Politics of Intervention. » in Rosenau, *idem.*, p. 41.

(11) James N. Rosenau, « The Concept of Intervention. » *International Affairs*, Vol. 22, n° 2 (1968), p. 166.

(12) Oran Y. Young, « Intervention and International Systems », *International Affairs*, Vol. 22, n° 2 (1968), p. 178.

(13) There are some who would dispute the assertion that aid given to bolster legitimate regimes constitutes « intervention ». While there is substantial force to this argument under normal conditions of interaction — for then, it is hard to distinguish such « intervention » from foreign policy in general — the argument loses force under civil war conditions. In the latter situation, it seems necessary to consider aid to either incumbent or insurgent as intervention.

(14) Furthermore, we are not concerned with the « humanitarian intervention » undertaken by a government to protect its citizens residing abroad ; only with action to protect nationals from the excesses of their government.

(15) Richard B. Lillich, « Intervention to Protect Human Rights, » *McGill Law Journal*, Vol. 15, n° 2 (June 1968), p. 210.

(16) Paper read to the Nigerian Society of International Law, March 1970, Lagos.

(17) Michael Reisman, with the collaboration of Myres S. McDougal, *Memorandum Upon Humanitarian Intervention to Protect Ibos*, Sept. 4, 1968, p. 1.

(18) Thomas M. Franck and Nigel S. Rodley, « After Bangladesh : The Law of Humanitarian Intervention by Military Force », *American Journal of International Law*, Vol. 67, n° 2 (April 1973), p. 299.

(19) *Ibid.*, p. 276.

(20) *Ibid.*

(21) *Ibid.*, pp. 304-5.

(22) It was the guerrilla warfare dimension which, for example, muddies the issue of My Lai. While to me, both the moral and legal issues seem clear there — My Lai was a brutal war crime — I must acknowledge that not all others are of the same opinion.

(23) Gowon's Address to the OAU Consultative Committee at Niamey, July 16, 1968. This statement was actually made when a proposal for a peacekeeping or observer force was being considered at Niamey, not with reference to the international observer team created in the fall of 1968. Nonetheless, the Nigerian purposes were essentially the same in both cases and expressed in almost the same language in each instance.

(24) Joint Church Aid Press Release, n° 120, December 12, 1969, Geneva.

(25) Professor Gottlieb, who long advocated the establishment of such a service, and who is serving on this panel, may wish to take issue with me on this. See, Gidon Gottlieb, « The United Nations and Emergency Humanitarian Assistance in India-Pakistan », *The American Journal of International Law*, Vol. 66, n° 2 (April 1972), pp. 362-5.

(26) Karel Vasak, « National, Regional and Universal Institutions for the Promotion and Protection of Human Rights, » *Human Rights Journal*, Vol. 1, n° 2 (1968), p. 179.